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10/528,833

06/16/2006

David Durantel

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STITES & HARBISON PLLC  
1199 NORTH FAIRFAX STREET  
SUITE 900  
ALEXANDRIA, VA 22314

EXAMINER

WOOLWINE, SAMUEL C

ART UNIT

PAPER NUMBER

1637

MAIL DATE

DELIVERY MODE

12/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/528,833

Examiner

SAMUEL C. WOOLWINE

Applicant(s)

DURANTEL ET AL.

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 23 October 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other See Continuation Sheet.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Samuel Woolwine/  
Examiner, Art Unit 1637

Continuation of 1(c) Other: Based on Applicant's amendment to claim 1, and having already indicated elected SEQ ID NO:17 was free of the art (see Office action mailed 04/24/2009), the examiner was prepared to search the additional, non-elected SEQ ID NO:18, since claim 1 now requires at least one of these two primer sequences. Therefore, if SEQ ID NO:18 were also free of the art, the claims would all be free of the art. However, the examiner discovered that SEQ ID NOs 17 and 18 are currently the same sequence. The paper sequence listing originally submitted with the application (on 03/23/2005) listed distinct sequences for SEQ ID NOs 17 and 18. However, on 06/16/2006, a replacement sequence listing was filed, wherein the sequence indicated as SEQ ID NO:17 became the same sequence as that indicated for SEQ ID NO:18. The sequence listing submitted 10/23/2009 also shows the same sequence for SEQ ID NO:17 and 18. Clearly this is not Applicant's intent. Applicant is advised to either cancel SEQ ID NO:18 from the claims, or else submit a substitute sequence listing to change SEQ ID NO:17 back to its original sequence. The examiner cannot complete the search for what was originally indicated as SEQ ID NO:17 until a substitute sequence listing, computer-readable form, and statement as required by 37 CFR 1.821(f) are submitted.